

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

CARD ACTIVATION TECHNOLOGIES, INC.,

Plaintiff,

v.

FASHION BUG, GUESS?, INC., J.C. PENNEY
COMPANY, INC., LANE BRYANT, MACY'S,
INC., PANERA BREAD COMPANY,
STARBUCKS CORPORATION, CABELA'S
INCORPORATED, NORDSTROM, INC., and
BLOCKBUSTER INC.,

Defendants.

Civil Action No. 4:10-cv-117

**COMPLAINT FOR
PATENT INFRINGEMENT
AND JURY DEMAND**

Comes now the Plaintiff, Card Activation Technologies, Inc. ("CAT"), by and through its attorneys, Stinson Morrison Hecker LLP, for its Complaint for Patent Infringement against Fashion Bug, Guess?, Inc., J.C. Penney Company, Inc., Lane Bryant, Macy's, Inc., Panera Bread Company, Starbucks Corporation, Cabela's Incorporated, Nordstrom, Inc., and Blockbuster Inc. states:

PARTIES, JURISDICTION AND VENUE

1. This is a civil action for patent infringement, injunctive relief and damages arising under the United States Patent Act, 35 U.S.C. § 1, *et seq.* Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. CAT is a corporation incorporated under the laws of the State of Delaware.

3. Defendant, Fashion Bug, is a Pennsylvania corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Bensalem, Pennsylvania.

4. Defendant, Guess?, Inc. ("Guess"), is a Delaware corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Los Angeles, California.

5. Defendant, J.C. Penney Company, Inc. ("JCPenney"), is a Delaware corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Plano, Texas.

6. Defendant, Lane Bryant, is a Pennsylvania corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Columbus, Ohio.

7. Defendant, Macy's, Inc. ("Macy's"), is a Delaware corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in New York, New York.

8. Defendant, Panera Bread Company ("Panera"), is a Delaware corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Richmond Heights, Missouri.

9. Defendant, Starbucks Corporation ("Starbucks"), is a Washington corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Seattle, Washington.

10. Defendant, Cabela's Incorporated ("Cabela's"), is a Delaware corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Sidney, Nebraska.

11. Defendant, Nordstrom, Inc., is a Washington corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Seattle, Washington.

12. Defendant, Blockbuster Inc. ("Blockbuster"), is a Delaware corporation, which operates retail stores throughout the United States, including the State of Missouri, with its principal place of business in Dallas, Texas.

13. Venue lies in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

FIRST CLAIM FOR RELIEF
(Patent Infringement Under 35 U.S.C. § 271)

14. CAT realleges and incorporates by reference all previous allegations as if fully set forth herein.

15. CAT is the owner of United States Patent No. 6,032,859 entitled "Method for Processing Debit Purchase Transactions Using a Counter-Top Termination System," issued on March 7, 2000 (the "'859 Patent"). A true and correct copy of the '859 Patent is attached hereto as Exhibit A and incorporated herein by this reference. CAT is the owner of the entire right, title and interest in the '859 Patent.

16. Fashion Bug, Guess?, Inc., J.C. Penney Company, Inc., Lane Bryant, Macy's, Inc., Panera Bread Company, Starbucks Corporation, Cabela's Incorporated, Nordstrom, Inc., and Blockbuster Inc. (collectively referred to as "Defendants") have directly infringed Claims 1, 5, 10, and / or 16 of the '859 Patent and continue to do so by performing, directing, or controlling the performance of each step set forth in Claims 1, 5, 10, and / or 16 of the '859 Patent.

17. CAT is entitled to recover from Defendants the damages sustained by CAT as the result of Defendants' wrongful acts of infringement in an amount subject to proof at trial.

18. The Defendants' infringement of the '859 Patent has been willful and deliberate, entitling CAT to increased damages under 35 U.S.C. § 284, and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

REQUEST FOR PLACE OF TRIAL AND JURY DEMAND

CAT hereby requests trial by jury to occur in the United States District Court for the Western District of Missouri.

REQUEST FOR RELIEF

WHEREFORE, CAT asks this Court to enter judgment in its favor against Defendants granting the following relief:

- A. An adjudication that Defendants have infringed and continue to infringe Claims 1, 5, 10, and / or 16 of the '859 Patent;
- B. An accounting of all damages sustained by CAT as the result of Defendants' acts of infringement;
- C. An award to CAT of actual damages adequate to compensate CAT for Defendants' acts of patent infringement, together with pre-judgment interest;
- D. An award to CAT of enhanced damages pursuant to 35 U.S.C. § 284 for Defendants' willful infringement;
- E. An award of CAT's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285 due to the exceptional nature of this case, or as otherwise permitted by law; and
- F. Any other, further, and different relief as this Court deems just and proper.

Dated this 8th day of February, 2010.

Respectfully submitted,

CARD ACTIVATION TECHNOLOGIES, INC.,
Plaintiff,

By: s/ **Victor C. Padios**

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